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Ideas On Liberty
December 2004 Vol. 54, No. 10

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by Richard M. Ebeling

THE FREEMAN
Ideas On Liberty
DECEMBER 2004

The Great Chinese Inflation

Inflations have undermined the cultural and economic fabric of society, bringing social chaos and revolution. One example is the Great Chinese Inflation of the 1930s and 1940s. Indeed, the destruction of the Chinese monetary system during this period helped Mao Zedong's communist movement triumph on the Chinese mainland in 1949.

In the nineteenth and early twentieth centuries, imperial and then republican China had no central bank. The monetary system was based on a diverse network of private banks operating in the various regions of the country. While copper was widely used in coins, the primary medium of exchange was silver, and the entire Chinese economy functioned on an informal silver standard for most of this time. A year after Chiang Kai-shek's Nationalist Party came to power in Nanking in 1927, the Central Bank of China was established with its headquarters in Shanghai, and the country was formally put on a Chinese silver-dollar standard.

For the first two years of the Great Depression, beginning in 1929, China not only weathered the international financial and economic storm, but actually experienced an export boom, with many domestic prices rising while the rest of the world suffered a serious price deflation. But in September 1931 Great Britain went off the gold standard and a growing number of countries engaged in currency depreciation, which adversely affected the value of the Chinese silver dollar on the foreign-exchange markets.

The fatal blow came in 1933 and 1934, when, under Franklin Roosevelt's New Deal, silver was remonetized. The U.S. government went on a silver-buying spree at a price above the world price in an attempt to push up prices in the United States. As the export price for silver rose in the financial center of Shanghai, silver flowed from the Chinese countryside to the main port cities on the coast, followed by a massive export of silver from China to the United States. A resulting catastrophic price deflation severely hit both Chinese agriculture and industry.

In October 1934 the Nationalist government imposed foreign-exchange controls on silver exports. Then in November 1935 the Central Bank of China officially took the country off the silver standard, made its bank notes legal tender, and placed the country on a fiat currency with government in full control of the quantity of money.

With no restraint now on the power of the Chinese government to turn the handle of the printing press, Central Bank policy soon led to monetary disaster with the coming of China's war with Japan.

The war between China and Japan lasted eight years, from July 1937 to September 1945. The Japanese army occupied more than one-third of China, including virtually all of the country's leading port cities and industrial centers. Over ten million Chinese civilians lost their lives in the fighting.

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The end of the conflict only reopened the longstanding civil war between Chiang Kai-shek's Nationalist government and the large communist forces led by Mao Zedong. The civil war raged across China for four years, until Mao's communists were triumphant on the mainland and the remnants of Chiang's Nationalist army withdrew to Taiwan in late 1949. Another five million innocent civilians lost their lives in the civil war.

In the war years Chiang's government resorted to the printing press to finance the majority of its spending, covering 65 to 80 percent of its annual expenditures through money creation. During the civil war years of 1946–1949, monetary expansion covered 50–65 percent of the government's spending.

When war with Japan broke out in 1937, the total quantity of money in circulation (currency and demand deposits) was 3.6 billion yuan. By December 1941, when the United States entered the war, the Chinese money supply had increased to 22.8 billion yuan. For the remainder of the war years the figures were: 1942, 50.8 billion; 1943, 100.2 billion; 1944, 275 billion; and 1945, 1,506.6 billion.

The civil war brought a worse inflation. By the end of 1946, the money supply had increased to 9,181.6 billion yuan, with a more than six-fold increase to 60,965.5 billion by December 1947. Seven months later, in July 1948, the money supply had expanded to 399,091.6 billion yuan.

A New Currency

The Chinese government then created a new yuan to replace the old depreciated yuan, at a conversion rate of three million old for one new. In August 1948 the new money supply stood at 296.82 billion yuan. But the government printing presses were set to work again, and by December 1948, the supply of this new yuan was 8,186.33 billion. Four months later, in April 1949, it had been increased to 5,161,240.0 billion yuan.

From 1937 to 1949, prices rose dramatically but to different degrees in the various regions of China, because of war-related scarcities and destruction, and the uneven impact of the monetary expansion. As one very rough indicator, we can use the wholesale price index of Shanghai during this period, with May 1937 equaling 1.

By the end of 1941 the Shanghai wholesale price index stood at 15.98. By December 1945 it had reached 177,088, and by the end of 1947 it was 16,759,000. In December 1948 the index had risen to 36,788,000,000, and in April 1949 it was at 151,733,000,000,000.

The value of China's paper money on the foreign-exchange market reflected this huge depreciation of the currency. In June 1937, 3.41 yuan traded for one U.S. dollar. By December 1941, on the black market 18.93 yuan exchanged for a dollar. At the end of 1945, the yuan had fallen to 1,222 to the dollar. And by May 1949, one dollar traded for 23,280,000 yuan.

It would be an exaggeration to say that China's Great Inflation was the primary cause for the defeat of the Nationalist government and the victory of the Chinese communists. The Nationalist Party was dictatorial in its structure, notorious for its corruption and abuse of political power, and often as ruthless as the communists in its use of military force.

But it is nonetheless true that whatever basis of popular support Chiang's government might have had against the communists was undermined by the inflation. It destroyed the wealth of the Chinese middle class and drove some segments of the rural population into severe poverty. During and after the war, the government imposed unworkable price and wage controls that only succeeded in creating even more distortions and imbalances throughout the Chinese economy.

Its policies produced social and economic unrest that played right into the hands of the communists and helped bring about more than half a century of Marxist tyranny on the mainland of China. □

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THE FREEMAN
Ideas On Liberty

Published by
The Foundation for Economic Education
Irvington-on-Hudson, NY 10533
Phone: (800) 960-4FEE; (914) 591-7230
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The Freeman is published ten times a year by the Foundation for Economic Education, Irvington-on-Hudson, NY 10533. FEE is a non-political, non-profit educational champion of private property, the free market, and limited government.

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The Freeman is available on microfilm from University Microfilm International, 300 North Zeeb Road, Ann Arbor, MI 48106.

Cover art: ©numismondo.com

PERSPECTIVE

Destructive Destruction

If we sound like a broken record at times, it's because sound economic thinking moves slowly through the culture. Case in point: On September 27, *USA Today* headlined what its reporter and editors must have thought was wonderful news: "Economic growth from hurricanes could outweigh costs." (At this point Dave Barry would say, "I'm not making this up.")

Here, in a mere seven words, is the fallacy Frédéric Bastiat identified in the nineteenth century and Henry Hazlitt re-identified in the twentieth. It consists in neglecting "what is not seen" and is best illustrated by Bastiat's broken-window fable. (See page 26 for its application to war.) Let's see how *USA Today* and its news sources fell for it.

The report begins by focusing on one company: "The phone at Dale Yeager's Pennsylvania firm has been ringing off the hook in recent weeks, thanks to a trio named Ivan, Frances and Charley." Those, of course, were destructive hurricanes that hit the southeastern United States late last summer. Thanks to an angry Mother Nature, "Yeager's expertise in corporate emergency preparedness analysis and training" was much in demand.

The newspaper notes that many other businesses were seeing similar boosts: "Although natural disasters spread destruction and economic pain to a wide variety of businesses, for some, it can mean a burst in activity and revenue."

No surprise there. Devastation will surely be followed by recovery efforts. That's what people do.

But the newspaper steps on shaky ground when it attempts to generalize, guided by sources it refers to as "economists." "For that reason, economists tallying the numbers expect the hurricanes will be neutral in their effect on the U.S. economy, or may even give it a slight boost, particularly because of an expected reconstruction boom in the already red-hot construction industry."

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One of those economists is Steve Cochrane, an economic consultant in Pennsylvania. As he sees it: "It's a perverse thing . . . there's real pain. But from an economic point of view, it is a plus." *USA Today* says Cochrane estimates that "in Florida, the state hit hardest by the storms, 20,000 jobs will be created that otherwise would not have been." Most of those jobs will be in construction, with others created in insurance, business services, utilities, and retailing.

Another consulting economist predicted that the expected slight dip in GDP will be outweighed by the construction boom. *USA Today* then listed other examples of benefits from the storms: increased sales of bottled water, juices, and walkie-talkies; more work for locksmiths; and new clients for business planners.

The key phrase in the story is "tallying the numbers." That refers to the visible economic activity in the wake of the hurricanes. The fallacy lies in ignoring what you can't tally numbers on: the goods and services *not* bought, the investments *not* made, the projects *not* undertaken because people must repair the storm damage.

The bottom line is this: Before the storm season people possessed intact homes and businesses *and* their money; their insurance companies' cash was invested in productive enterprises. After the storm season people possessed destroyed or damaged homes and businesses, which they had to spend their money to replace or fix. Their insurance companies had to liquidate investments to pay the claims. That money would have been spent or invested to produce *additional* things. Instead, it will be used simply to put things back the way they were the day before the storms.

How that can be good for society generally defies explanation.

* * *

The "Star Trek" television series and movies attracted huge followings for their stories of adventure and heroism in other worlds. Gardner Goldsmith suggests that you not learn your economics from them.

All around the country bicycle trails are being built on abandoned railroad beds. There's only one problem: sometimes the landowners object. Kirk Teska has the details.

Productivity increases are apparent everywhere throughout the economy, except for one of the fastest growing parts: the licensed professions. Lewis Andrews investigates.

Ambrose Bierce is best known for the *Devil's Dictionary*, his cynical redefinition of the English vocabulary. Less well known is Bierce's demolition of socialism. Daniel Hager does his part to fix that.

As noted, Bastiat's "broken window" fallacy is widely committed by those who see silver linings in storms and earthquakes. As Thomas Woods points out, looking for an economic stimulus from war is the same fallacy writ large.

Our columnists spent the last month searching for the most arresting topics: Richard Ebeling relives the Great Chinese Inflation. Lawrence Reed says beware democracy. Thomas Szasz dissects "therapeutic jurisprudence." Stephen Davies celebrates the life of Richard Cobden. Russell Roberts suggests a reason why we don't have more freedom. And, stumbling across the argument that taxing and regulating charities would bring social benefits, your editor bellows, "It Just Ain't So!"

Books reviewed this issue scrutinize the creation of Iraq, the history of violence, and teachers unions.

—SHELDON RICHMAN

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Government Should Regulate Charities?

It Just Ain't So!

Forbes magazine editor and columnist William Baldwin is upset that nonprofit charitable corporations are able to evade accountability, pay their executives too much, and engage in shady bookkeeping. He wants something done about it: "This country's several million nonprofits escape with only the sketchiest of oversight by the Internal Revenue Service. Revenue agents figure they would be wasting their time on an audit, since there's no tax money to be had. We could fix that." How?

Baldwin has a three-part plan. "First, make all nonprofits with $10 million in assets or revenues post financial statements on the Web. . . . Next, make all corporations pay the corporate income tax. . . . [Finally, limit] charitable tax deductions to assistance to the needy."

The first part is apparently intended as a matter of fairness. Business corporations have to make disclosures. So why not nonprofits? But the fairness issue cuts both ways. Why *should* businesses corporations be forced to disclose financial information? To assume that compulsory disclosure is necessary implies, paternalistically, that investors wouldn't demand pertinent information before risking their own money. Likewise, don't potential donors seek information from nonprofits before mailing their checks?

Apparently they do. A few seconds on the Internet are all it took to find three organizations that independently dispense information about charitable organizations: the American Institute for Philanthropy (www.charitywatch.org), the Better Business Bureau's Wise Giving Alliance (www.give.org), and the newest of the three, Charity Navigator (CN, www.charitynavigator.org).

According to the *Christian Science Monitor*, "Inspiration for CN came four years ago, after New Jersey businessman John Dugan learned that the donations he and his wife made to a New York charity mostly enriched those who ran the organization. . . . Not to be fooled again, Dugan started CN with $1.5 million—some of the wealth he reaped when PDI, a drug-marketing company he ran, went public in 1998."

CN has been rating 10,000 to 15,000 charities that solicit money through direct mail, telephone, the Internet, and special events. Almost 70 percent have earned three or more stars on a four-star scale. "When rating a nonprofit, CN examines the 990 IRS tax forms filed by nonprofits each year. It then compares those figures with charities involved in similar causes," the *Monitor* reports. On CN's home page you'll find, among other things, a link to "10 Charities with Extremely High Administrative Costs."

Clearly, information is available to those who want it. Government-mandated disclosure either would be redundant or, as with business corporations, would require reams of data that potential donors don't want. The bureaucrats' agendas and incentives don't necessarily line up with the needs of people making decisions about their own money. Who is likely to be a better judge of things?

Regarding his plan for taxing nonprofits, Baldwin elaborates: "No problem for a charity hospital or a struggling theater group—they run deficits and would owe nothing. But possibly Harvard University would have to cough up a few bucks." Yet as Roy Cordato pointed out in this space last month, corporations—whether for-profit or nonprofit—*can't* pay taxes. They can only *collect* them—although from whom in what proportion is not entirely clear. What would be the basis of a corporate tax on a *nonprofit*

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anyway? Baldwin is annoyed by big salaries paid to nonprofit executives, but has he forgotten that they pay the personal income tax? I don't mean to countenance that tax, but what's the case for yet another layer of taxation? Further, just as a tax on business corporations reduces investment and production by diverting money to government bureaucracies, so a tax on nonprofits would reduce charitable works by doing the same thing.

As for his proposal to restrict personal income-tax deductions to donations to the needy, Baldwin writes, "Such a rule would disqualify a large chunk of the $136 billion that taxpayers claimed on their 2002 returns. It wouldn't inhibit anybody's generosity to the Salvation Army. It would allow you a deduction for your donation to a scholarship fund but not for the money to build your alma mater a football stadium. Opera companies would be in real trouble."

Who Decides?

But why should the government, rather than individuals, decide who is needy and which causes are worthy? Baldwin's proposals are hardly fitting for a society ostensibly dedicated to maximum freedom and minimum government. It would be one thing to argue that the tax system should attempt neither to encourage nor discourage charitable giving. But Baldwin doesn't do that. Since he wants some kinds of giving encouraged and others discouraged, his plan is as manipulative as anyone's. Leaving people alone to make their own decisions isn't of interest to him.

Notice what happened. Baldwin began by charging that many charities are crooked or at least irresponsible. His call for mandatory disclosure, wrongheaded as it is, at least bears some relationship to that charge. But how would taxing nonprofits and donors to opera companies combat shadiness? These look more like ways to extract tax revenues from people who aren't paying as much as Baldwin thinks they should.

He says his tax proposals would make it worth the Internal Revenue Service's while to audit charitable organizations and catch the bad ones. But it would also harass legitimate ones, reducing their activities while extracting wealth from people who already pay too much in taxes. As we've seen, the voluntary sector provides watchdogs, so his rationale for expanded IRS powers is tissue-thin.

Needless to say, laws against theft and fraud should—and already do—apply to nonprofit organizations. If a charity solicits money for orphans and spends it on executive cruises to exotic places, the people responsible should be forced to make restitution. But apparently the well-established common law against taking money under false pretenses isn't good enough for Baldwin.

Permeating Baldwin's argument is a sense that government should have dibs on any wealth within its jurisdiction and that the burden of proving that a portion of that wealth should *not* be taxed belongs on those who produced it. Is Baldwin aware that the American Revolution was partly a tax rebellion?

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The Economic Fantasy of "Star Trek"

by P. Gardner Goldsmith

A friend of mine is an award-winning science-fiction novelist. When we first met, I happened to mention to him that I was working on a science-fantasy novel, just as he was. He bristled.

"I write science-*fiction*, not fantasy," he said. "Those two genres shouldn't even be in the same section at the bookstores."

It was an early lesson in the difference between those who write books that employ real science to drive the plot and those who create unrealistic worlds, even if those worlds conform to their own internal logic. I was not to encounter again the difference between science fiction and science fantasy until years later, while in the script department of one of the many "Star Trek" spinoffs.

Sitting in a "story pitch session" with one of the producers, I happened to offer a story outline that involved a *Sting*-like scheme by the main characters to retrieve a sizeable amount of stolen money. But as I told the story, the producer held up a hand and informed me that I needn't go any further.

Seeing my puzzled face, this warm and genuinely friendly person told me something I did not know.

"Gene," the producer said, referring to Gene Roddenberry, the creator of the series, "stipulated before he died that there was to be no money in the Federation."

I was still puzzled.

"No money?"

"Right. He believed that by the 23rd century, mankind would have evolved past the need for money."

I wondered if Roddenberry meant that mankind would develop some sort of bio-electronic monetary data system, something that would allow the characters to eschew paper money and walk freely, without bulky wallets and pocketbooks to get in their way on the transporter pads. That was, however, far from the case.

According to this producer, Roddenberry, who was known as the "Great Bird of the Galaxy," simply thought that humanism would strip mankind of the acquisitive tendencies it had shown throughout history, and that the use of money was a vice his utopian "Federation" would eliminate.

The producer looked at me and said, "It was one of the biggest mistakes he ever made. You have no idea how much of a headache that rule has been."

Given my background in economics, I actually had a pretty good idea.

Roddenberry's belief was nothing new. In his eyes, money was clearly a vestige of man's base past. It was a symbol of greed, a cause of war and hatred and anger and loss. The drive for it was something mankind needed to overcome, and in Roddenberry's pristine world of the future, man would rise above his dirty urges for riches and concentrate on more noble goals, like science,

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adventure, green-painted women, and mind-melding rocks.

Given this idealistic concept, it can only be assumed that Roddenberry believed man would somehow surpass the need for products and services, would move beyond the subtle and noble differences in interest and skills that prompted the ancient differentiation of labor and free trade, and would glide toward a socialistic method of living, where there would be no need for money. There would be no need for money because there would be no need for exchange, and there would be no need for exchange because man would "evolve" beyond the need for private property, the division of labor, and the gauche acquisition of goods, services, and funds that come with them.

It was at that moment, sitting there in the Paramount Studios on Melrose Avenue in Hollywood, that I realized "Star Trek" was not science fiction, but science fantasy.

The No-Money Fantasy

This is not to deride the series. I like it. But despite the attempt on the part of the producers to back up facets of the stories with well-researched science, the fact that Gene Roddenberry outlawed money means his creation can be nothing other than fantasy.

The reason is simple. Like Roddenberry, many thinkers have tried to envision a world in which there is no need for money, no market exchange, and no property. And every one of those thinkers, be they followers of John Lennon, Michael Moore, or Karl Marx, has overlooked one key insight: man's nature does not change.

When people try to fulfill their needs, their varying interests, talents, and skills will prompt each of them to concentrate on what he does best. Such differentiation of labor will allow each to use his capabilities in the most productive way possible. Each person will soon see the benefits of trading some of the fruits of his labor for those of another. The way to maximize one's labor in a world of differing skills and interests is to enter into market exchange with others, offering what one makes or does well in exchange for what others make or do well. Thus if you are a lumberjack, you can offer wood in exchange for food from the farmer. That way you don't have to farm and the farmer doesn't have to cut down trees. Since the two of you are doing what you do best, you are maximizing your work, and there will be more of both products than would exist if you and the farmer had to concentrate on the two forms of labor.

But what if the farmer has already traded for all the wood he needs? In that case, you will have to find a product the farmer *does* need, approach the producer of that item, and see if that producer needs wood. If he does, you can exchange your wood for the new product, then approach the farmer to finish your original exchange.

This becomes complicated when myriad interests, needs, skills, and products begin to come into play. Therefore, man, in his striving to maximize convenience, gradually evolved a method to facilitate exchange: money.

Money allows all participants to employ a universally recognized medium of exchange. No longer will you have to find a third or fourth or fifth party to trade your lumber to in order to get goods from the farmer. You can use money. You can hold it, spend it, and even lend it for a return sometime in the future. The flexibility of money, with its ability to let disparate persons work in harmony, is (far from Roddenberry's view) one of the most glorious developments in the history of mankind. Money is the machinery of peace, not of war.

Furthermore, without money, it is impossible for the value of consumer or producer goods to be expressed in a practical way. Prices reflect the countless subjective valuations of sellers and buyers engaging in peaceful exchange. Prices are the result of each participant's decisions—the essential carriers of information and the indispensable elements of economic calculation. They not only reflect preferences, but also the relative scarcity of goods and resources. Without money, there can be no systematic expression of value or scarcity. Even in Roddenberry's "Federation," someone had to buy

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the "dilithium crystals" for Scotty to use in his famous Engine Room.

Utopian Socialism

If one looks closely at "Star Trek," Gene Roddenberry's United Nations-based concept of the "Federation" and the military life of his space travelers, one concludes that he adhered strongly to the fanciful ideas of utopian socialism. Like the socialists who preceded him, he favored large-scale blocks of control instead of small political bodies or individual autonomy. He rejected private property and market exchange, believing that man would "grow out" of those childish idiosyncrasies. He embraced a paternalistic view of the future that would inevitably lead to depleted resources, impoverishment, and economic stagnation, not a galaxy-hopping culture that found adventure at every turn.

Oddly enough, his stipulation that there be no money in his high-tech space series means that his main characters, when in dire need of some product or service out in deep space, have to revert to the inefficient and outdated method of exchange we replaced thousands of years ago. In fact, this is precisely what the producer who sat before me explained when I asked her how they wrote stories that required some kind of market exchange.

In the "Final Frontier," she said, they are forced to barter for what they need—just like the olden days.

How frustrating for both the writers and the characters they created. It's no wonder Captain Kirk always wanted to be beamed away. He wanted to get to a world where the universal principles of economics applied, not the fanciful dreams of a visionary whose ideas had been tried and failed many times throughout human history. □

In brief

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DECEMBER 2004

The Dark Secrets of Rail Trails

by Kirk Teska

Linda Rowley lives in rural western Massachusetts on her family's homestead in a house built in the 1750s. She remembers trains running through the property when it belonged to her great-grandparents. But long before she took possession, the tracks were removed. Nevertheless, she has been reminded of those tracks—and not pleasantly.

Rowley estimates she spent well over $300,000 and six years fighting an effort to build a bicycle path across her land where those trains once ran. She even gave up her nursing job to devote time to her battle. She eventually won, although a large majority of the townsfolk of Williamsburg (pop. 2,400) had voted for the project.

The attempt to place the bike path on Rowley's and other properties in Massachusetts was spearheaded by the Rails-to-Trails Conservancy, a nonprofit advocacy organization based in Washington, D.C., with a singular mission: to convert abandoned railroad beds to public bike trails. To date, the work of the Conservancy's 100,000 members has succeeded. Its website boasts of having achieved over 12,500 miles of trails around the country, with hopes for a total of 15,000 by year's end.[1] As Conservancy president Keith Laughlin pointed out in testimony before a House committee in 2002, the $2.655 billion cost (since 1992) for roughly 1,000 trails in all 50 states has been paid for with federal, state, and local tax dollars.[2]

The Conservancy's work, however, has invited opposition from property owners. In 2002 the U.S. assistant attorney general for environment and natural resources, Thomas L. Sansonetti, told Congress that 17 pending rail-trail court cases involved 4,550 claimants across the country, resulting in a possible exposure of over $57 million.[3]

That was not the first time Congress was warned about the cost. In 1998 Nels Ackerson, whose law firm regularly represents private landowners who have had their land taken for this use, told a House subcommittee that trails conversion has become "a vast program for the quiet confiscation of land." He said the "real beneficiaries [of the] seamy process" are not hikers and bikers, but railroads and utilities. "Railroads, not landowners, are paid for the landowners' property. Utilities and others who are given licenses by the railroads or trails' sponsors to use the property get bargain prices. . . . Meanwhile, the true landowners receive nothing, not even a notice or a thank you," Ackerson said. Thus the program has "created a blank check drawable from the account of the U.S. Treasury and payable to private companies and individuals who have the power to make decisions that may cost the taxpayers hundreds of millions of dollars or more."[4]

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The landowners' beef? Although each case is different, the Rails-to-Trails Conservancy's mission of converting abandoned railroad beds into bicycle trails assumes they can be legally converted. The problem with this assumption is that abandonment of a rail bed often means the property should revert to the private landowner from whom the railroad took it in the first place.

This basic property-law principle is clear at least to some courts involved in rail-trail cases. When a landowner has land taken by the government for a railroad easement and it later is abandoned, the landowner (or more typically his or her successors) again owns the land outright. In property-law parlance, an easement across someone's property, once abandoned, is extinguished, or ceases to exist. The reason is that easements are messy and thus somewhat disfavored in the law, and in any case, an easement is a right of use only, not a right of possession. This is why some rail-trail opponents, like Rowley, have stopped trails in their tracks.

How It All Started

In 1866 the Massachusetts legislature allowed the New Haven and Northampton Railroad to obtain an easement over land Rowley now lives on. In 1962 the railroad ceased operating, and in 1971 the Massachusetts Electric Company acquired its land. The electric company then allowed the Conservancy to construct a rail trail on the land. Rowley and many others like her were not pleased and fought the company and the Conservancy in court. In the end, the Massachusetts Supreme Judicial Court had little trouble holding, under state law, that when the railroad ceased operating, its easement was extinguished. That meant the electric company acquired nothing and therefore could not allow the Conservancy to construct a rail trail.

Today, Rowley's case is settled and she has clear title to her land. But she still worries about eminent-domain proceedings against her and other homeowners whose land is targeted by rail-trail advocates.

Her case is not an anomaly. The U.S. Supreme Court heard the case of Paul and Patricia Preseault of Vermont, who owned land along Lake Champlain through which a railroad once ran. When that land was earmarked for a rail trail, the Preseaults sued and were ultimately awarded $1.5 million in damages, including legal fees.

To understand the full implication of these and similar cases, one has to understand the history of the U.S. rail system and its ultimate demise. In the 1800s railroads were thought to be important enough that Congress and many states gave public lands and, later, easements over public lands to the railroads. Certain states also gave them the power to take private land. Sometimes a railroad would buy the private land outright (called a "fee simple estate" in property law); sometimes only an easement was purchased; and sometimes it was unclear: a transfer from a farmer or other landowner to a railroad might use words like "fee simple," indicating an outright purchase, but also words like "right of way" and "for railroad purposes," indicating the purchase of an easement only. In addition, the law of some states seemed to limit the railroad's purchases to easements only, irrespective of the wording.

In any case, the result was over a quarter of a million miles of railroad tracks in the United States by 1920. By 1989, 50 percent of the rails were abandoned.[5] Someone apparently noticed that the railroads' abandonment of their easements across private land could result in a reversion to the owners. What happened next was a concerted attempt to prevent that.

In 1976 Congress first recognized a problem with reversion: the expense of reacquiring rail corridors, should they be needed in the future, would be considerable. So the concept of "rail banking" was born, and a complex system of laws was passed essentially to prevent a court from finding that a railroad had abandoned an easement across private land. If an easement could not be ruled abandoned, it could be later used for a commuter rail if needed. In the interim, a state or a group of rail-trail proponents

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could convert the line to a public way.

The first rail-banking effort failed. So in 1983 the National Trail System Act was amended to promote the preservation of abandoned railroad rights of way. The Act authorizes private or public entities to purchase inactive or unused rail lines from railroad companies for conversion to public recreational use. The railroad retains the option to repurchase the trail and reinstall tracks should rail operations once again become necessary.

Then came the idea of funding conversion of abandoned rail lines for bicycles, motorcycles, and snowmobiles. In 1992 Congress dedicated some of the federal highway funds available to the states and other money to rail trails. Primary sources of the money, the 1991 Intermodal Surface Transportation and Efficiency Act (ISTEA) and its successor, the Transportation Equity Act, have yielded over $2 billion in support of rail trails and related things.[6] That funding, in turn, spawned lobbying organizations like the Rails-to-Trails Conservancy, which assists communities in securing federal money and in planning and constructing bicycle rail trails.

The Conservancy dismisses opposing landowners as "abutters" or "adjacents." But in many cases that is inaccurate because the railroad easements sometimes run *under* houses. In Rowley's case, it runs under a corner of her home. Two of her neighbors are having trouble refinancing their homes because of the easements.

At times a rail trail has been proposed that starts and ends on land owned by a town, a state, or willing private landowners, but crosses property whose owners object. Anyone knowledgeable about project planning would grade such a proposal a dismal failure, but not the Conservancy. Instead, it initiates campaigns touting the benefits of public bike paths (safety and public health) and distributes booklets such as "Rail-trails and Safe Communities." Taxpayer money is then used to clear and pave the beginning and the end of the trail, at which point the landowners in the middle are vilified as "snags," "holdouts," or worse. In 1998, when the people of Weston, Massachusetts, overwhelmingly voted against a rail trail through their town, although it had been approved by towns on either side, the *Boston Globe*'s Derrick Jackson called the residents "coots," "privileged," and "paranoid."

Manual of Advice

The Conservancy publishes a manual of advice for effective rail-trail advocacy, including tips on coalition-building, fundraising, dealing with the opposition, media relations, and pressuring for public acquisition. There's even a section on choosing the right name for the proposed rail trail. ("Bluebird Trail" is a good name, says the Conservancy; "Eminent Domain Trail" presumably is not).

Perhaps the most vocal opponent of the rail trails and the Conservancy's tactics is Richard Welsh of Washington state, founder of the National Association of Reversionary Property Owners (NARPO). His website tracks landowner court cases and monitors the many crimes that occur on rail trails. Its continuing account of trail rapes and murders was used in the Weston campaign.[7] The Conservancy's response is to downplay the crimes.

A bike trail is a good thing, but not at the price of landowners' rights. Conservancy supporters should put themselves in those people's shoes from time to time. □

1. See www.railtrails.org/.

2. Testimony of Keith Laughlin before the Subcommittee on Highways and Transit of the House Committee on Transportation and Infrastructure, June 25, 2002; www.house.gov/transportation/highway/07-25-02/laughlin.html.

3. Statement of Assistant Attorney General Thomas L. Sansonetti before the U.S. House of Representatives Committee on the Judiciary, Subcommittee on Commercial And Administrative Law, "Litigation and Its Effect on the Rails-To-Trails Program," June 20, 2002; www.house.gov/judiciary/sansonetti062002.htm.

4. Testimony of Nels Ackerson regarding Surface Transportation Board Re-Authorization: Inter-Carrier Transactions, Construction & Abandonments before the House Subcommittee on Railroads Committee on Transportation and Infrastructure, May 6, 1998; www.ackersonlaw.com/oral.html.

5. Gregg H. Hirakawa, "Preserving Transportation Corridors for the Future: Another Look at Railroad Deeds in Washington State," *Seattle University Law Review*, Fall 2001, p. 481.

6. See "Transportation Equity Act for the 21st Century," Rails-to-Trails Conservancy, www.railtrails.org/whatwedo/policy/tea21.asp.

7. See http://home.earthlink.net/~dick156/.

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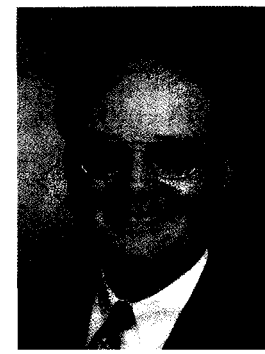

The Golden Calf of Democracy

Democracy," H. L. Mencken once said, "is the theory that the common people know what they want, and deserve to get it good and hard." He also famously defined an election as "an advance auction sale of stolen goods."

Mencken was not opposed to democracy. He simply possessed a more sobering view of its limitations than today's conventional wisdom.

Indeed, democracy may be the world's single most oversold concept of political governance. Commonly yet erroneously romanticized, it is assumed in most circles to ensure far more than it possibly can. The Norman Rockwell portrait of engaged, informed citizens contending freely on behalf of the common good is the utopian ideal that obscures the messy details of reality.

Just how oversold democracy is came home to me recently as I listened to a group of college students debating farm subsidies. Advised that experience and economics underscore the folly of subsidies, the student consensus was nonetheless in support of "helping farmers." Why? Because that's apparently what the people wanted when they voted for the congressmen who gave us the handouts. To those students and a disturbing number of other citizens these days, the veneer of "democracy" somehow covers up a multitude of sins. It may even sanctify them. We need another dose of Mencken-esque reality—and that starts with a clearer view of what this thing is that enraptures so many.

Monarchy is easy to define. If you've got a king, you've got one. Military dictatorship is also stark in its manifestation. If one guy wears a uniform, has all the tanks, and tells everybody else what to do, you've got one of those. But what exactly is democracy?

Pure, undiluted democracy is unshackled majority rule. Everybody votes on everything, and 50 percent plus one decides every "public" issue—and inevitably, a whole lot of what ought to be *private* ones too. Perhaps ancient Athens for a brief time came closest to this, but no society of any size and complexity can practice this form of governance for long. For starters, it's unwieldy and unworkable, endlessly contentious, and disrespectful of certain inalienable rights of individuals who may find themselves in the minority.

People like the sound of "democracy" because it implies that all of us have equal say in our government and that a simple majority is somehow inherently fair and smart in deciding all or virtually all issues. On closer examination it should become apparent that subjecting every decision of governance to a vote of the people is utterly impossible. Many decisions have to be made quickly; many decisions require knowledge that few people possess or have the time to become expert on; and many decisions don't belong in the hands of any government at all. A pure democracy, even if possible, would quickly degenerate into the proverbial

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two wolves and a sheep voting on what to have for lunch.

Suppose someone says, "I just don't like people with boats and jewelry. I think we should confiscate their property. Let's have a vote on that." A democratic purist would have to reply, "All in favor say aye." A person interested in securing individual rights would have to say, "That's *not* a proper function of government, and even if 99 percent of the citizens vote for it, it's still wrong. There's nothing about mob rule that makes such a decision legitimate."

In common parlance, "democracy" has been stretched to mean little more than *responsive* government. Because of elections, government officials cannot behave in a vacuum. That fact is laudable, but it hardly makes a "democratic" government heavenly. In his penetrating book, *Capitalism, Democracy, and Ralph's Pretty Good Grocery*, Ohio State University professor John Mueller writes that democracy "has been characterized by a great deal of unsightly and factionalized squabbling by self-interested, shortsighted people and groups, and its policy outcomes have often been the result of a notably unequal contest over who could most adroitly pressure and manipulate the system. Even more distressingly, the citizenry seems disinclined to display anything remotely resembling the deliberative qualities many theorists have been inclined to see as a central requirement for the system to work properly."

Irrespective of presidential candidates' singing interminable paeans to "our democracy," America is thankfully not one and never has been. Our Founders established a republic, and a republican form of government modifies pure democracy considerably. It provides a mechanism by which almost anyone can have some say in some matters of government. We can run for office. We can support candidates and causes of our choosing. We can speak out in public forums. And, indeed, a few matters are actually decided by majority vote. But a constitutional republic founded on principles that are more important than voting—like individual rights—will put strong limits on all this. In its Bill of Rights, our Constitution clearly states, "Congress shall make no law. . . ." It does not say, "Congress can pass anything it wants so long as 50 percent plus one support it."

Ballots over Bullets

Those democratic elements of our republic should be given their due. Elections are a political safety valve for dissident views, because ballots not bullets resolve disputes. But the saving grace of democracy is not that it ensures either good or limited government; it is nothing more than that the system allows for political change without violence—whether the change a majority favors is right or wrong, good or evil.

We should be thankful America's Founders did not erect a monarchy or a dictatorship, but we should have no illusions about the harm a responsive government, whatever you want to call it, can still do. Even the best and *most* responsive of governments, we should never forget, still rests on the legal use of force—an inescapable fact that requires not blind and fawning reverence but brave and determined vigilance. That calls for sober people who understand the nature of government and the importance of liberty. □

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THE FREEMAN
Ideas On Liberty
DECEMBER 2004

Separate the Professions and the State

by Lewis M. Andrews

Since the early 1990s, and even through the collapse of the stock-market bubble, the American economy has continued to experience remarkable increases in worker productivity, both in manufacturing, which now accounts for 14 percent of the nation's output, and in many service sectors as well. By the third quarter of 2003, the U.S. economy was growing at 8.2 percent, the highest rate in decades.[1]

Yet in retrospect, we notice that the efficiencies that propelled the American economy for more than a decade have evaded an important segment of the workforce: high-level professionals, including those employed in education, medicine, and public administration. As a result, tuition at the average four-year private college in the United States nearly doubled from 1990 to 2000, going from $10,348 to $19,312.[2] During that same period, state universities imposed an 85 percent increase on their students. Similarly, with the exception of a brief respite from the implementation of managed care in the late 1980s, health-care costs for business are rising at 9.6 percent annually, simultaneously increasing the net price of labor while reducing what could be available for wage increases.[3]

As we shall see, professionals are adept at manipulating the political process, inflating the cost of many services with direct and indirect government subsidies. But to really understand how certain groups of highly educated workers can command ever higher compensation in an otherwise efficient economy, we must first go back to a management concept that has traditionally helped to define the very meaning of the word professional: "collegial self-regulation."

This means that the nature of the service is so sophisticated and intricate that the quality of its rendering can only be judged by someone else educated in the same field. Unlike the factory worker, whose job is sufficiently easy to understand that it can sometimes be automated or outsourced to less-educated labor in developing countries, the professional is deemed to have a labor function that only he and his colleagues, speaking through their professional associations, can comprehend and therefore regulate, either through a shared code of conduct or through their influence over the writing of relevant legislation.

The result is that, while many professionals technically have bosses—college presidents and deans, hospital administrators, or simply private-sector clients—a large part of their daily behavior is governed by rules and expectations of their own making.

Like industrial workers, most professionals are paid for the time they work, but with little incentive to improve productivity in the classical sense: output per hour. Instead, they are expected to add value by "doing their best."

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And while there are certainly many people in every profession whose personal ethics hold them to the most exacting standards, it has been the historical tendency of every self-regulating elite to promote legislation that reduces competition, to preserve special privilege, and to insulate its members from the consequences of error and even negligence.

Stephen Moore, president of the Club for Growth, has cogently observed that the two most inflated service sectors in the American economy, public-school education and Medicare, are both characterized by a system of *third-party payments*—which is to say that the cost of educating a child or of treating a sick senior is not borne directly by the consumer, but by a large and faceless pool of taxpayers.[4] The result is that the consumers of these services have no personal incentive to insure that they are provided at the best possible price.

Third-party reimbursement is not the only way that professional elites thwart competitive pricing, but it does suggest a more universal truism: that the power of a profession to preserve its high-priced inefficiency lies in its political ability to blunt competitive pressure through subsidy or regulation, and especially through licensing requirements that limit the number of people who can practice in its field. At the same time, every profession promotes a stereotype of competence that precludes any rigorous evaluation of the service it actually performs.

An obvious example is the case of tenured professors at state universities, whose compensation is completely detached from the number of students taught, the success of former pupils, the quality of their research, or any other measure of effectiveness. Come time for the annual review of university staffing budgets by the appropriate committee of the state legislature, politicians are treated to the usual platitudes about the need for an independent faculty to guarantee students a quality education.

The fact that professional lobbying may seriously harm consumers does not seem to restrain its influence. In the 1990s orthopedic surgeons actually went so far as to persuade the U.S. Congress to punish the federal Agency for Healthcare Research and Quality for correctly concluding that spinal fusion surgery for back pain produces no real improvement. *Wall Street Journal* science reporter Sharon Begley remembers that the surgeons were so successful they "crippled for years the very idea of evidence-based medicine."[5]

Political Arm-Twisting

The ability to create an economic privilege through a combination of political arm-twisting and public relations means that even professionals who claim to compete aggressively for business—architects, engineers, and many lawyers—have, in reality, only a rudimentary idea of what it means to work productively. Their businesses "are ridden with inefficient processes and unstructured behavior," says Albert Bitton, director of business development for Tenrox, a California company that develops management software for service professionals. "Resources are not utilized at the optimal capacities, collaboration is less than ideal, billing cycles are lengthy, project status is based on out-of-date information, and project costs are not managed or known with certainty. . . ."[6]

Ronald Goldsmith, North American editor of *The Service Industries Journal,* agrees. He points out that Federal Express, McDonald's, and many other large corporations have developed powerful techniques for streamlining their services—delegating low-level and repetitive tasks, for example, and using price incentives to control work flow—that the vast majority of professionals could also employ, but believe they can safely ignore. "Unfortunately, [these] highly educated people continue to resist the idea that they have anything to learn from people who deliver packages or flip hamburgers for a living," Goldsmith says.[7]

Allowing professionals to regulate themselves through the political process may have been a tolerable way to manage knowledge workers in times past, when the American economy was dominated by manufacturing and consumers lacked sufficient education to

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evaluate complicated services. But the number of professionals in America has multiplied to the point where low productivity has begun to create serious economic distortions. As a result of the spiraling cost of a college education, for example, 39 percent of graduates with student loans are carrying a debt load that the Public Interest Research Group's Higher Education Project classifies as "unmanageable."[8] And although there is honest disagreement about exactly how many families have been priced out of affordable health insurance, medical costs are clearly accelerating at many times the rate of inflation.[9]

As in the case of orthopedic surgeons, even the most expensive and critical professional services come with little guarantee of quality. Widely publicized research by Dr. Jack Wennberg and his colleagues at the Dartmouth Medical Center shows that a typical physician's decisions are just as likely to be determined by idiosyncratic local customs and financial self-interest as by any knowledge of best medical procedures.[10] George Halvorson, chairman of California's Kaiser Permanente hospital chain, often cites a study where 135 physicians were presented with the same patient and came up with 82 different treatments.[11]

Most worrisome of all is that professional services are expected to dominate the American economy in the years to come. Between now and 2010, according to Daniel E. Hecker, an economist with the Bureau of Labor Statistics (BLS), employment in the professions is projected to add more workers—seven million—than in any other occupational grouping.[12] Indeed, every one of the top 25 jobs expected to grow the fastest between now and 2010 is a professional occupation.

Demand for Services

This startling "professionalization" of the American economy is caused in part by an increasing demand from aging baby boomers for services such as medical care, financial planning, and adult education, as well as by an increase in manufacturing efficiency, which has led to a worldwide reduction in the need for industrial workers. But even without the boomers, as author Irving Kristol first observed in a famous 1975 essay, "Business and the 'New Class'," the very nature of industrial society requires more—and more varied kinds of—college-educated professionals whose skills go hand in hand with a modern economy: scientists in fields such as genetic engineering, systems analysis, and medical-device design; special-education teachers; higher-education administrators; ecologists; international-marketing experts; public-policy analysts; family counselors; city planners; foundation officers and their research staffs; government managers; human-resource managers; and of course journalists, who can make clear to the public what all the other specialists actually do.[13]

"Knowledge workers are rapidly becoming the largest single group in the workforce of every developed country," says management expert Peter Drucker. However daunting it may seem, he warns that the real economic challenge for developed countries in the 21st century will be to achieve the same 3.5 percent average annual rate of productivity improvement in the professions as manual workers achieved in the last century: "In no other way can [advanced countries] hope to maintain themselves, let alone to maintain their leadership and their standards of living."[14]

The good news is that advances in information technology and management science are beginning to make it possible for nearly every profession to become more efficient. Consider income-tax preparation, a job once considered sufficiently complicated to require the services of an accountant. Today, many people do their own tax returns with the help of *TaxCut* or *Turbo Tax*. In the field of law, sophisticated documents, such as wills and basic business contracts, are readily available on programs such as *Family Lawyer* and *E-Z Personal Law Library*.

Even sophisticated services, such as teaching a college-level course, can be refined and packaged in a more economical manner. Supported by an $8.8 million grant from

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the Pew Charitable Trust, Carol A. Twigg at Rensselaer Polytechnic Institute has worked with professors from 30 colleges and universities around the country to fine-tune the design of large-enrollment courses, using sophisticated feedback techniques to reduce instructional costs while improving the quality of teaching.[15] "[Our] preliminary results show that all thirty [colleges and universities] reduced the costs of course delivery by 40 percent on average, with savings ranging from 20 to 86 percent," says Twigg. At the same time, the redesigned courses produced "increased course-completion rates, improved retention, better student attitudes toward the subject matter, and increased student satisfaction."

All this is not to suggest that the majority of professionals are ready to let the market forces help them be more productive. They are certainly not ready to let private rating services supplant government licensing, a basic reform that would make all professions more efficient overnight. Unfortunately, no group of workers that gets comfortable with the way it earns a living, be it manual laborers in bygone factories or today's white-collar professionals, ever likes to be forced to innovate, even for its own long-term benefit.

A century ago the pioneer of industrial automation, Frederick Winslow Taylor (1856–1915), earned the undying enmity of labor unions by inventing the scientific study of worker productivity, a discipline that led to an improved standard of living for all Americans, but especially for workers themselves. Today's professional elites are just as resistant to calls for efficiency, only, being better educated, they are far more adept at using the political system to suppress the most important catalyst for higher labor productivity: the consumer's freedom to shop for value.

They Are the Government

The ability of professional elites to lobby government for special privilege is strengthened by the fact that, to a large extent, *these elites have become the government*. Not only do lawyers dominate state legislatures and Congress; but politicians have also extended their oversight of education, health care, the environment, transportation, and commerce to such a degree that the rules under which many professionals operate are increasingly written by colleagues inside some government bureau or department. Not surprisingly, these regulations tend to reinforce the notion of professionals as high-priced hourly labor, perhaps burdened with obligations "to society," but with little responsibility or incentive to improve their own productivity.

And when any program which the government itself directly manages begins to falter, the legislative response is typically to employ even more professionals to provide supplemental services on the same inefficient basis—effectively spreading the government's largess among an interlocking web of diverse knowledge workers. Hence, the political answer to the failure of public education is the subsidy of remedial classes for incoming college freshmen; the cure for inefficient public hospitals is to place them under the administration of a new bureaucratic department; and the solution for prisons that fail to rehabilitate is to hire a staff of psychologists at the department of corrections.

Still, for all their collective ability to shape state and federal legislation—and to do so under the guise of doing good—today's professionals must confront the paradox that their rapidly expanding numbers will inevitably force them to become more efficient. In the end, the ability of any elite to secure an unproductive economic advantage is based on the fact that it *is* elite, not simply in terms of education, but as a percentage of the population. When the number of Americans in professions and related occupations reaches 20 percent of the workforce, as the Bureau of Labor Statistics predicts it will by 2010, the only alternative to making knowledge workers more productive will be economic stagnation.[16]

This coming confrontation with reality will likely be accelerated by the research power of the Internet, which has emboldened consumers to make informed demands

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on teachers, lawyers, accountants, and especially doctors. In one of the most ambitious consumer-empowerment plans to date, 28 large employers, including Sprint, Lowe's, BellSouth, J. C. Penney, and Morgan Stanley, are teaming up to develop online "scorecards" to help employees choose doctors based on how well—and cost effectively—they care for patients. Using claims data provided by their insurance carriers to measure how well individual physicians stack up against each other, these companies aim to make it possible for employees to instantly check ratings for all the doctors in their area who treat a specific illness and then pick the one who scores best for quality and efficiency.[17]

Already there are signs that some professionals see the need to make their respective disciplines more responsive to market forces. One of the fastest growing trends among family physicians in private practice is drastically discounting the cost of their services to patients who pay out of pocket. Pay-as-you-go medicine is "a phenomenon that certainly isn't in the mainstream yet," says William Jessee, president of the Medical Group Management Association in Englewood, Colorado, "but it seems to be becoming more visible and perhaps more common."[18]

The July/August 2003 issue of *Change* magazine reported that university faculties are increasingly becoming peopled by what it terms "instructional entrepreneurs," full- and part-time faculty who see that the future of education lies in designing, marketing, and delivering more cost-effective programs, especially to students who can no longer afford the traditional four-year curriculum. Among two-year community colleges, the most successful schools are those that excel at rapidly and efficiently accommodating the training needs of regional employers.[19]

What is certain is that the nature of what it means to be a professional must change radically in the years to come if the American economy is to sustain its historic rate of growth. Success and prestige will have to flow from those who are content to earn a credential and game the political system to a newer breed of knowledge workers who are more willing to be challenged and more eager to innovate. □

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DECEMBER 2004

Ambrose Bierce on Socialism

by Daniel Hager

Ambrose Bierce packed a pistol when he walked the streets of San Francisco. As a long-time editor and writer there, he made many enemies through the pungency of his pen. So he wisely carried a revolver in case of retaliation. He backed up that prudence with a reputation carried from the War Between the States that he was a crack shot.

Bierce's range of verbal targets ran beyond the local to the universal. His habit was to dissect the illusions and vanities of human beliefs and behaviors and expose them to ridicule. He wrote essays, poems, and short stories so prolifically that his collected works total 12 volumes, including *The Devil's Dictionary,* a compilation of hundreds of acerbic definitions.

During his 40-year literary career, Bierce amply observed the tenets and antics of socialists as they attempted to make inroads in America. They withered under his analysis. Witness his 1910 treatise, "The Socialist—What He Is, and Why."[1]

Today few persons admit to being socialists, but the basic beliefs are as epidemic as ever. The ideal is an egalitarian cooperative commonwealth that erases class lines and provides abundance for all but not too much for any. This result can be achieved only through a centralized planned economy, with bureaucrats pulling whatever levers are necessary so that everything will turn out "fair." Redistributionism is key to realization of its vision. The leveling process requires confiscation of property from those who have "too much" and apportionment of it to those who deserve "more."

Since redistributionism is a vital concept in today's political discourse, Bierce's essay, despite the lapse of a century, hits the bullseye as dead-center as if it were written last week.

Bierce faulted socialists on two grounds, the intellectual and the moral. The system founders when subjected to rational analysis, and it fosters ignoble qualities in its adherents.

"His unreason is what he is a socialist with," Bierce wrote in prefacing his discussion of the socialist's deficient grasp of simple economics (p. 38). He identified a primary misapprehension: "The socialist notion appears to be that the world's wealth is a fixed quantity, and A can acquire only by depriving B. He is fond of figuring the rich as living upon the poor—riding on their backs, as Tolstoi (staggering under the weight of his wife, to whom he had given his vast estate) was pleased to signify the situation" (p. 42).

Contrary to the socialists, the sum of wealth will increase if wealth producers are allowed to exercise their talents and create new products and services. Bierce wrote, "In the youth of a nation there is virtual equality of fortunes—all are poor. Sixty years ago

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there were probably not a half dozen millionaires in America; the number now is not definitely known, but it runs into thousands; that of persons of less but considerable wealth—enough to take attention—into the hundreds of thousands" (p. 41). Wealth builds additional wealth as new demands develop: "All the industries of the world are so interrelated and interdependent that none is unaffected in some infinitesimal degree by the new stimulation [of demand]" (p. 43).

Thus the redistributionist should work better to advance himself economically rather than lobby to appropriate others' wealth: "The plain truth of the matter is that the poor live mostly on the rich. . . . A man may remain in poverty all his life and be not only of no advantage to his fellow poor men, but by his competition in the labor market a harm to them; for in the abundance of labor lies the cause of low wages, as even a socialist knows. As a consumer the man counts for little, for he consumes only the bare necessaries of life. But, if he pass from poverty to wealth he not only ceases to be a competing laborer; he becomes a consumer of everything that he used to want—all the luxuries by production of which nine-tenths of the labor class live he now buys. He has added his voice to the chorus of demand" (pp. 42–43).

America the Open

This chorus is amazingly open to membership in America, according to Bierce: "We have so good a country here that more than a million a year of Europe's poor come over to share its advantages. In the patent fact that it is a land of opportunity and prosperity we feel a justifiable pride; yet the crowning proof and natural result of this—the great number that do prosper—'the multitude of millionaires'—has come to be resented as an intolerable wrong, and he who is most clamorous for opportunity (which he has never for a moment been without) most austerely condemns those who have made the best use of it" (pp. 44–45).

Character shortcomings fuel the redistributionist movement, Bierce believed. The socialist "would substitute something 'more nearly to the heart's desire'—an order of things in which all would share the rewards of efficiency. Always it is the incapable who most loudly preaches the gospel of Equality and Fraternity—which, being interpreted, means stand and deliver and look pleasant about it" (p. 38).

He identified the driving force: "Riches and luxurious living provoke envy in the vast multitude to whom they are inaccessible through lack of efficiency; and from envy to revenge and revolution the transition is natural and easy" (pp. 40–41). He observed that "the [socialist] 'movement' as a social and political force is, in this country, born of envy, the true purpose of its activities, revenge. In the shadow of our national prosperity it whets its knife for the throats of the prosperous. It unleashes the hounds of hate upon the track of success—the only kind of success that it covets and derides" (p. 46).

Bierce anticipated the New Deal and its confiscatory taxation policies that raised the top marginal rate on incomes to 91 percent. The momentum of hostility against the more efficient opened up an uninviting prospect: "It looks as if we may eventually have to prevent the multiplication of millionaires by setting a legal limit to private fortunes. By some such cowardly and statesmanlike concession we may perhaps anticipate and forestall the more drastic action of our political Apaches, incited by Envy, wrecker of empires and assassin of civilization" (pp. 46–47).

Among the envious who helped form the climate of hostility were "poets, muckrakers, demagogues and other audibles" adding their "howls of sensibility" (p. 43). In discussing this group, Bierce was also prescient regarding the Hollywood ideology of today. Since the movie industry's nascence about the time he wrote his essay, it has remained the economic sector with the least regulatory interference and the closest current approximation of laissez-faire capitalism, and accordingly has yielded incredible levels of wealth to many of its participants. Yet the entertainment industry's dominant creed is malice against capitalism and demand for

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Who Was Ambrose Bierce?

Born in southeastern Ohio in 1842, Bierce started writing seriously in 1865, following service as a Union Army officer during the Civil War. He went west and worked at various jobs before becoming editor of the San Francisco *News-Letter*. Bierce's "Devil's Dictionary" definitions first appeared in his noted column, "The Prattler," which he wrote for almost 30 years. Hired as a writer for the San Francisco *Examiner* in1887 by William Randolph Hearst, Bierce began publishing his Civil War stories soon thereafter. He wrote for various Hearst publications, including the New York *Telegraph* and *Cosmopolitan*, until 1908.

Bierce is especially known for tales of the supernatural, including "An Occurrence at Owl Creek Bridge," and for *The Devil's Dictionary*, which was originally published as *The Cynic's Word Book*.

His colorful career and personal life were marred by his sometimes imprudent behavior (a physical attack on a fellow author, drinking bouts with Mark Twain and Jack London, controversy about four lines that seem to have presaged President William McKinley's assassination) and family problems (a divorce from his wife and the bizarre deaths of his two sons).

In November of 1913 he left Texas for revolution-wracked Mexico and sent his last communication the day after Christmas. His fate remains a mystery. There were stories that he was killed by one of Pancho Villa's firing squads, but the truth may well have been more prosaic.

expanded economic control by the state (its own industry excepted).

Bierce provided an explanation. He wrote that "the poet, the artist or the musician is almost invariably an audible socialist" because "he is not a thinker but a feeler." Bierce added that "some of these 'intellectuals' . . . might better be called emotionals" (p. 42).

Some even in his day were already "fairly thrifty and prosperous" but could apparently not grasp that "in the redistribution of wealth which many of them impudently propose [they] would be first to experience the mischance of 'restitution'" (p. 42).

Or perhaps they were like many of today's university professors who advocate harnessing the producer classes into a socialistic economic ideal under which relatively few universities would exist to employ professors. Bierce wrote of these "emotionals" that "doubtless they do not expect their blessed 'new order of things' to come in their day. Meanwhile there are profit and a certain picturesqueness in 'hailing the dawn' of a better one, just as if it had already struck 'the Sultan's tower with a shaft of light'" (p. 42).

A century ago the dogma of socialist redistributionism was intellectually tawdry. Bierce with his flair tore it to bits. But its appeal survives on an emotional level—as he described it, through "the prevalence and power of some of the primal brute passions of the human mind" (p. 40).

Bierce did not include "socialism" or "socialist" in *The Devil's Dictionary* but added a dig under "Troglodyte," citing a "famous community" that lived with David in the Cave of Adullam. Quoting from I Samuel 22:2, Bierce wrote that "the colony consisted of 'every one that was in distress, and every one that was in debt, and every one that was discontented'—in brief, all the Socialists of Judah."[2] □

1. Ambrose Bierce, *The Socialist—What He Is, and Why*, in *The Collected Works of Ambrose Bierce*, Vol. IX, Tangential Views (New York and Washington: Neale Publishing Company, 1911).

2. Ambrose Bierce, *The Devil's Dictionary*, in *Collected Works*, Vol. VII, p. 352.

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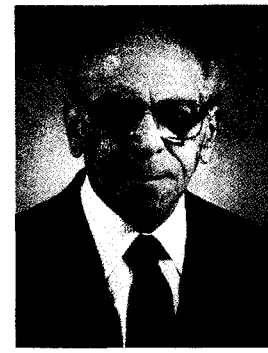

Primum Nocere

Although the phrase "First, Do No Harm" is not in the Hippocratic Oath, in the opinion of many scholars Hippocrates did originate it. In his book, *Epidemics*, he wrote: "As to diseases, make a habit of two things—to help, or at least to do no harm." This principle, usually expressed in its Latin translation, *Primum non nocere*, forms the traditional basis of medical ethics. In the modern therapeutic state—where condemned conduct is conceptualized as disease and its punishment is defined as treatment—the first principle of psychiatric ethics is *Primum Nocere*, though it is defined, both in ethics and in law, as *Primum Beneficire*.

The physician's job, among other things, is to help: cure disease with the consent of the patient. The judge's job, among other things, is to harm: punish lawbreaking without the consent of the defendant. (Physicians and judges have other jobs as well, such as performing autopsies and protecting due process.) When judges sentence lawbreakers to treatment—"drug rehab," "counseling," "therapy"—they punish the subjects. When psychiatrists and other mental-health professionals implement the sentences, they harm the "patients."

Let us keep our language and ideas clear. Wardens who carry out sentences imposed by judges harm their prisoners, regardless of the outcome of the intervention. Psychiatrists who carry out sentences imposed by judges also harm their patients, regardless of the outcome of the intervention. In each case, an agent of the state—prison or mental-health personnel—forces a subject to submit to legally mandated coercion. The difference is that jailers do not claim to be their prisoners' benefactors, whereas psychiatrists insist that they are the benefactors of their involuntary patients. Herewith a few recent examples.

Wisconsin—Audrey Seiler, 20, a student at the University of Wisconsin in Madison, is found guilty of faking her own abduction, a crime that led to a "massive manhunt shown live around the nation. . . . She first told police she had been abducted from her apartment at knifepoint, then later said she had left on her own but was abducted elsewhere in Madison. . . . She never fully admitted to police that the story was a hoax, but was seen on a convenience store security video purchasing rope, duct tape and other items she had claimed her kidnapper used to restrain her." Her attorney said, "Seiler was suffering from depression triggered by the death of a close aunt a year and a half ago, as well as her transfer to Madison, which took her too far away from her family." She is sentenced to "continue therapy" (and to some restitution and community service). (See www.cnn.com/2004/LAW/07/01/missing.student.sentence/; July 1, 2004.)

California—Singer Courtney Love, found guilty of "trying to break into her ex-

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boyfriend's home while high on cocaine," is sentenced to 18 months in "drug rehab." (*International Herald Tribune*, July 29, 2004, p. 9)

France—Marie-Leonie Leblanc, found guilty of falsely claiming "that she had been a victim of a vicious anti-Semitic attack," is ordered "to undergo psychiatric treatment." (*International Herald Tribune*, July 27, 2004, p. 3)

Scotland—A teenage girl giving evidence in a courtroom swears at the judge and tells "him where to go." Her sentence? Probation for a year and an order "to attend anger management classes." (http://news.bbc.co.uk/1/hi/magazine/3569250.stm; August 16, 2004)

Sweden—The lawyer for Mijailo Mijailovic, who killed Swedish Foreign Minister Anna Lindh, "argued that his client—under the influence of a cocktail of antidepressants when he stabbed Lindh—did not intend to kill her. . . . Anders Forsman, an expert with the National Board of Health, said Mijailovic was seriously mentally ill." In a unanimous decision, the Swedish Court of Appeals rules that the defendant "had acted on an impulse. . . . No motive for the deed has emerged." Sentenced "to psychiatric care, Mijailovic will be moved to a hospital forensic psychiatry ward for analysis [sic]. . . Hypothetically, he could be set free in six or seven months." (*International Herald Tribune*, July 9, 2004, p. 3)

Therapeutic Jurisprudence

The idea of using psychiatric treatment as punishment is not new. Only the practice of it is. Two hundred years ago, Benjamin Rush (1746–1813), the father of American psychiatry, declared: "Were we to live our lives over again and engage in the same benevolent enterprise [politics], our means should not be reasoning but bleeding, purging, low diet, and the tranquilizing chair."

In recent decades, this brutality masquerading as humanism has been elevated to a special branch of legal studies. Law professors David B. Wexler and Bruce J. Winick call it "therapeutic jurisprudence" and define it as "the study of the role of the law as a therapeutic agent." However, therapeutic jurisprudence is not about studying the law; it is about perverting justice and law. The practice of therapeutic jurisprudence epitomizes the ethics of *primum nocere*—harming patients but defining it as helping them.

Most persons experience their coerced psychiatric treatment as punishment. That is why psychiatrists insist that the persons subjected to psychiatric coercion are psychiatric patients, not psychiatric victims; that psychiatric coercion is treatment, not punishment; and that individuals who oppose their "benevolence" are wicked enemies of caring for the sick, not defenders of liberty and justice. He who controls the vocabulary controls social reality.

The erosion of our liberties is not a mystery. Overwhelmingly, it is the result of the alliance between medicine and the state, intensifying people's dependency on pharmacratic authority and psychiatric controls, fostering and fostered by a hyperinflationary definition of disease and treatment.

When the government controls religion, not only religious liberty but all liberty becomes a chimera. When the government controls health, not only medical liberty but all liberty becomes a chimera. □

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The Myth of Wartime Prosperity

by Thomas E. Woods, Jr.

Whenever an earthquake or a tornado causes great damage, some reporter somewhere claims that on net it will boost the local economy since the rebuilding effort will create jobs and increase business for local merchants. Similarly, whenever a war breaks out, the same reporter can be counted on to emphasize the economic stimulus it allegedly confers.

As if on cue, in May the *Washington Post* published an article headlined "Across America, War Means Jobs." Although it acknowledged that the matter wasn't quite so simple, the article nevertheless quoted a great many people who asserted that war was a boon for the economy. "If it wasn't for [Defense Department] contracting," said Brian Smith of Columbia Sewing Company, "we would not be here, and 200 people would be out of a job." Roanoke Mayor Betty Slay Ziglar was thrilled: "These people have grown up sewing in textile plants, and there are so few now. They were desperate to have jobs, and it's going to expand again. I'm so grateful." "The economy is always helped by war," appliance salesman Gary Gayer told the *Post*. "That's just a fact."

It is clear enough that war stimulates certain sectors of the economy. But it is logically and economically unjustified to equate that stimulus with prosperity for the American people as a whole. Ludwig von Mises summed up the correct position when he observed, "War prosperity is like the prosperity that an earthquake or a plague brings."

Frédéric Bastiat exposed the "broken window" fallacy in the mid-nineteenth century. A shop window broken by a man's "incorrigible son" is said to benefit the economy, since the company that fixes the window enjoys a "stimulus," which in turn is passed along to those with whom the window company does business. What this analysis overlooks is that the man with the broken window would have spent his money on other things if he had not needed to buy new glass. The "stimulus" that would have been bestowed on, say, the picture-frame store, where he could have spent his money, now never occurs because he had to replace his window. Had the window not been broken, the shopkeeper would have had a window and a frame. Now he has only a window.

The repair of the window is *what is seen*, and focusing on it leads poor logicians to conclude that the breakage was actually a boon. The lack of a picture frame *is not seen*, but is no less a consequence of the unfortunate incident.

The same kind of analysis can be fruitfully applied to war. The jobs created for the production of weapons and other military equipment, as well as the jobs in the armed forces, are paid for by taxing the private

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economy. Thus financing wartime activities diminishes private incomes—that is, the ability of Americans to buy the goods they need. And because people and capital goods are now producing war-related items and services, fewer are available to produce goods for consumer needs. In short, Americans have less money with which to buy fewer goods. How can this be anything other than economic retrogression?

There are countless other deleterious effects as well. In extreme cases, government rations certain crucial goods to ensure adequate supplies for the military. No definition of prosperity includes restricting the civilian population's ability to acquire goods. But even when outright rationing is not undertaken, government purchases nevertheless distort the economy. For example, large purchases of steel will lead to price increases, making it more difficult for private businesses that use steel to meet their competition in a global market. If the higher prices attract new steel producers, this new production comes at the cost of abandoning other industries, thus further skewing the economy in favor of the government's preferences over those of the consumer.

Some will object that military equipment is fundamentally different from other goods the government might buy, since it is necessary to protect the population against foreign enemies. But even if we assume this to be true, it is still the case that war itself does not create prosperity. Buried in the *Post* article was the amazing statistic that in real terms the cost of the Iraq war will surpass the American share of World War I. To put it mildly, that is a substantial drain on the private economy.

World War II and American Prosperity

Part of the reason that the prosperity-through-war myth persists is that most people have been taught that World War II lifted the United States out of the Great Depression and ushered in a period of unprecedented affluence. But the myth is no more valid for that conflict than for any other.

Historians make much of the substantial production and employment statistics compiled during World War II and triumphantly point to its great economic "stimulus." But most of this increase was due to the construction of armaments and military equipment, and payments to military personnel. This production was not geared toward producing things that ordinary people needed. From a purely economic point of view, the war made consumers worse off by diverting capital and other resources away from civilian production and toward the production of goods that no consumer would wish to purchase. Between 1943 and 1945, some two-fifths of the people who could work—including members of the armed forces, civilian employees of the armed forces, people who worked in the military-supply industries, and the unemployed—were not producing consumer goods or capital goods geared toward the production of consumer goods. That was not all, of course: the tax money from the remaining three-fifths went to fund military production and activities. All of this amounted to a dramatic *loss* of material wealth.*

Unemployment did virtually disappear. But it did so primarily because 11 million people were added to the armed forces, mostly by conscription. As Robert Higgs explains, "During the war the government pulled the equivalent of 22 percent of the prewar labor force into the armed forces. Voilà, the unemployment rate dropped to a very low level. No one needs a macroeconomic model to understand this event."

In the unhampered market, jobs are never in short supply. Since human wants are unlimited, more labor is always needed to produce more goods. The sick economy of the New Deal, however, could address the unemployment problem only by conscripting over a fifth of the labor force into the military.

Meanwhile, the average work week in manufacturing increased by seven hours

*See Robert Higgs, "Wartime Prosperity? A Reassessment of the U.S. Economy in the 1940s," *Journal of Economic History*, March 1992, pp. 41–60; www.independent.org/newsroom/article.asp?id=138.

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between 1940 and 1944, and by a full 50 percent in bituminous coal mining. And because of the demands of wartime, people found it more difficult, and sometimes even impossible, to acquire the goods they needed. No one could buy a new car, house, or major appliance, since the government had forbidden their production entirely. A great many other goods were either unavailable or difficult to obtain, from chocolate bars and sugar to meat, gasoline, and rubber tires.

As economist George Reisman writes in *Capitalism*, "People believed they were prosperous in World War II because they were piling up large amounts of unspendable income—in the form of paper money and government bonds. They confused this accumulation of paper assets with real wealth. Incredibly, most economic statisticians and historians make the same error when they measure the standard of living of World War II by the largely unspendable 'national income' of the period."

Common sense is right after all: death and destruction do not lead to prosperity. That should be obvious. But as George Orwell once said, "We have now sunk to a depth at which restatement of the obvious is the first duty of intelligent men." □

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A Man to Remember

June 4, 2004, was a significant date for all who care for the history and cause of human liberty. It marked the 200th anniversary of the birth of a great champion of freedom, a man who wrought a revolution not only in his own land but worldwide. The man was Richard Cobden.

Born in Sussex in modest circumstances, Cobden became a successful businessman as a calico printer after his move to Manchester, the city with which his name is forever associated. In 1837 he made his first mark in politics when he started a successful campaign to incorporate Manchester as a self-governing borough and abolish the feudal rule of the manorial court. However, his great contribution to liberty really began the following year.

At that time Britain's political and economic order, while more liberal than most, was still clearly a part of the *ancien régime*. The central institution was a system of agricultural protection known as the Corn Laws. Passed at various times and consolidated after 1815, these prohibited the import of grain unless the price of domestically grown produce passed a certain level. The effect was to artificially support the price of domestic grain and its products, such as bread. This transferred income from the masses to agricultural producers. The poor were particularly hard hit, since bread was the main part of their diet.

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The great winners were not tenant farmers but large landlords. The Corn Laws were the centerpiece of duties on a wide range of commodities and products, which provided the greater part of government revenue. This revenue in turn supported the system of "Old Corruption" in which benefits and favors went to the elite as pensions, sinecures, and lucrative posts.

The Corn Laws also had far-reaching international effects. By closing British markets to farmers in France and Germany, they impoverished producers there and so reduced the market for British manufactured goods. The laws were a classic example of "class legislation."

Much modern political science would suggest that nothing could be done about this. The costs of the Corn Laws were spread among many people, the majority of whom could not even vote. The benefits were highly concentrated in a class that had a predominant position in the political system. This, one might think, would make anything beyond marginal change impossible. Cobden and others thought otherwise.

On the September 24, 1838, seven local men met at a Manchester hotel and formed an organization to campaign for the repeal of the Corn Laws. Cobden was unable to attend because he was in Germany, but he joined on his return, along with his close friend John Bright, and they became the acknowledged leaders of the movement. The Anti-Corn-Law League, as it came to be known, soon was the most effective popular political movement Britain had seen. With

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headquarters in Manchester and branches all over the country, it used the recently introduced penny post and the railroads to launch a national campaign. Only eight years later, in 1846, Parliament voted to repeal the Corn Laws.

Several points can be made about the methods and arguments of Cobden and his colleagues. Their demands were radical and intransigent. From the start Cobden and the others refused to adopt a piecemeal strategy or to settle for partial reform. Instead they demanded the "Immediate and Total Repeal of the Corn Laws." Their aim was not to lobby the political class but to pressure it by transforming public opinion. This meant that their legislative victory had far-reaching long-term effects. For almost a hundred years it was political suicide to stand on a protectionist platform in Britain.

Emphasis on Liberty and Justice

Although economic arguments played a large part in the campaign, its main thrust was ideological and emphasized liberty and justice. Again, this meant that the League was able to change public opinion in a fundamental way, not simply on one policy issue. Above all, an explicit connection was made between free trade and peace. This was of central importance to Cobden, who was an ardent opponent of militarism, war, and an aggressive foreign policy. (He also strongly opposed British imperialism.)

Cobden's career after 1846 has received less attention but was still highly significant. Elected to Parliament in 1841, he was defeated in the election of 1857 because of his opposition to the Crimean War and Palmerston's foreign policy. He was an active campaigner for a number of causes, including parliamentary reform, but above all the international peace movement. Cobden was a persistent critic of high levels of military spending and also of government economic regulation. He argued for low taxes, limited government, and a pacific foreign policy.

His other great achievement was, along with the French liberal Michel Chevalier, to negotiate the free-trade treaty of 1860 between Britain and France, which brought an end to centuries of trade barriers between the two countries and applied the principle of free trade to a greater part of the world than at any time before in history.

His career had permanent effects both in Britain and elsewhere. Following the move to free trade, there was a long trade-driven boom, which brought about a dramatic increase in living standards in many countries. Contrary to the arguments of his opponents (repeated by many today who should know better), there was both a reduction in the price of food and an increase in wages. The fiscal basis of the British state was transformed, and by 1870 almost all the duties had been swept away and the size of the government's share of national income reduced. Cobden did not win the argument over imperialism but held the government to account, and there were enough supporters of his argument to make any government cautious until the revival of imperialism and jingoism later in the nineteenth century.

Richard Cobden died in 1865. The causes for which he fought, sadly, still need campaigners of his kind. Free trade among all of the people of the world, peaceful relations and reduction of armaments, the diminution of the power of governments, and opposition to imperialism and chauvinism are all issues where intellectual and political battle is joined. His arguments and success should be an inspiration to us today, as should be the way he conducted his campaign, passionately and with conviction but without rancor. □

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CAPITAL LETTERS

Can There Be Free Trade in a Mixed Economy?

To the Editor:

Although I don't see any flaws in your arguments about the theory of free trade in your column for the April 2004 issue of *The Freeman*, you should at least acknowledge the distortions in most any nation's economy because of government intervention and direction. Because of that government involvement, I question whether we really can have free trade in the world today.

Just because jobs move to other countries where tasks can be done more cheaply than in this country does not necessarily mean that it's because of the working of the free market. In fact, that is certainly not the case. Most, if not all, countries subsidize their industries so that they can compete with American companies or, in some cases, overtake and replace them. . . . For example, Japan set up national industrial policies to subsidize their electronics and steel industries specifically so they could overtake the U.S.'s. . . . [T]hat's also why Japan's economy has been stagnant for the past ten or so years. . . .

One may discuss the ability of government-subsidized goods to cross borders freely; but free trade? It can't exist under the current state of political control of economies. Let's remove the controls in our own country first, then talk about free trade.

—Joe Ogrinc
Bratenahl, Ohio

Sheldon Richman replies:

My article did what is suggested in the letter: "[T]he mixed economy creates problems that appear attributable to international trade. . . . Finally, the doomsday scripts written by the free-trade skeptics confuse the effects of trade with those of pervasive government intervention in the economy. Yes, free trade requires people to make adjustments. Here's how the government can help: cut spending, slash and repeal taxes, abolish regulations, and move to market-based money."

Even if foreign competitors are subsidized to the extent that most people think, why is it assumed that shelter from competition would make those firms efficient? We should expect just the opposite. Japan's record of helping industry has been unspectacular, despite impressions to the contrary. Foreign subsidies are indeed unjust to the taxpayers who have to provide them, but they do not violate free-trade principles per se, which merely call for borders open to goods and services.

Was Mises Right about Copyrights?

To the Editor:

In the June issue, Bettina Bien Greaves explored Ludwig von Mises's opinions on copyrights and patents, and finds that Mises gave at least tacit approval of them. I thank her for bringing our attention to this issue. Her article shows that even the greatest minds can sometimes fall for popular fallacies. At least Mises recognized that copyrights and patents are monopolies created and enforced by a government.

One of the fastest growing areas of the economy today is in works, such as Linux, which are explicitly put in the public domain by the inventors so that they can continue to benefit from progress in technologies necessary for their work without impediment of copyrights and patents. Sharing technology improves efficiency and standardization, especially in favor of those who share that technology. This flies in the face of Mises's conjecture that if factor *f* is needed for product *g*, and *f* does not attain any price at all, then production of *f* might need a government monopoly for *g* to be available. . . .

Mrs. Greaves says, "if the government is to protect property, it must define that property." I think that such definition might be unsupportable and contrary to natural law.

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In natural law, a property right is authority to decide how some thing is used. This right is natural, because no two people can use the same thing at the same time. With a patent, one has the pledge of the government that it will assault someone who is imitating one's patented methods. An unlimited number of people can imitate a method; and very likely no one will know about the vast majority of imitations. So, I find it difficult to call a patent something that can be owned in the same sense that physical property can be owned. To the extent that the government uses patents and copyrights to justify restricting the use of one's mind, skills, and desired use of property, patents and copyrights involve government violation of property rights rather than protection of the same.

Mrs. Greaves notes that James Madison included copyrights and patents in the U.S. Constitution. However, the writers of the Constitution did so with hesitation, and Thomas Jefferson had serious concerns that merited several letters to James Madison. (See *Copyrights and Copywrongs* by Siva Vaidhyanathan, 2001.) It is also not at all clear to me that Madison's inclusion within property rights of "opinions and the free communication of them" meant copyrights and patents. . . .

—Joseph D. Rudmin
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To the Editor:

Bettina Greaves's scholarly article on how Mises viewed copyright and patents fulfills the limited objective set by its title, but unfortunately leaves open the question of how those issues might be resolved in a properly free society; that is, one burdened by no irrational presumption that any solution must be furnished by a government.

Supposing that we can bring about such a society, the questions of how composers, writers, and inventors could protect their intellectual property becomes surprisingly simple: for the only "rule" applying would be that no obligations exist except those undertaken voluntarily by contract—that being an alternative expression of the no-government premise. Thus if Mrs. Greaves had written a masterpiece on economics, she would consider whether or not it should be published, hopefully bringing her rich rewards as customers buy copies. If so, she would specify simple terms of contract governing each and every sale; they would include a clause that says the buyer may not under any circumstances copy the work.

Should a buyer subsequently break that contract and sell knockoffs of a work he does not own, he would be made to compensate the author. . . . A powerful deterrent, to be enforced of course by a free-market justice system.

Similar terms would restrict those who broadcast music and who listen to it, and those who place CDs on the Internet, etc. There would be neither need for nor possibility of "laws"—which are, being no more than one-sided contracts, hopelessly inadequate.

—Jim Davies
jimdav@copper.net
Newbury, N.H.

Bettina Bien Greaves replies:

Mr. Rudmin's criticism, as I see it, consists of three major points. He suggests that (1) by endorsing copyrights and patents, Mises fell for a "popular fallacy"; (2) to the extent that patent and copyright laws prevent individuals from copying a patented device or process, they restrict individuals from using their minds and skills; and (3) government violates "natural law" when it defines property more precisely than to say that "a property right is authority to decide how some thing is used."

One may or may not agree with Mises on copyrights and patents. Perhaps he did fall prey to mainstream thinking. After all, the stand one takes is a value judgment, not a question of right or wrong or scientific law. Mises gave the subject serious thought and he agreed pretty much with the view, expressed in the Constitution, that copyrighting written works and patenting inventions would help "To promote the Progress of Science and useful Arts."

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It is certainly correct to say that "a property right is authority to decide how something is used." However, this is not a sufficient definition. All property originates from self-ownership, appropriation, and occupation of unused natural resources, production, exchanges, and gifts. However, it is not "natural law" that determines what is private property in today's complex division-of-labor economy. Market participants determine what is property by trading and by the terms in their contracts. They are continually exchanging goods and services in line with mutually agreeable terms, and ownership is continually shifting. If differences and misunderstandings arise concerning the terms of a contract, it is up to the courts to settle such disputes and assure that each market participant receives the property that is his due. And that is not always easy, even in the case of physical property. In some cases the courts—the government—must even define property and decide to whom it belongs.

I do not agree that government uses patents and copyrights to justify restricting the use of mind, skills, and property. What the patent gives the creator of an invention (a "practical application" of a principle, not the principle itself) is the exclusive right—for a certain period—to make reproductions to sell or to lease to others, or to authorize others to construct and operate the invention. The patent application is public, and its information may save would-be inventors the trouble of doing their own research and enable them to develop a new invention that they can then patent.

In response to Mr. Davies, what the copyright accomplishes is to define a new literary or musical creation as more than a physical object comprising sheets of paper with printing on them, which may be disposed of as the owner wishes. The copyright recognizes a property right of the creator not in the ideas presented, but "in the form or expression of ideas." This gives the creator "the exclusive right to reproduce the work, prepare derivative works, or to perform or present the work publicly." Thus once a work has been copyrighted, its "form or expression of ideas" attains special status as "property."

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BOOKS

Churchill's Folly: How Winston Churchill Created Modern Iraq

by Christopher Catherwood

Carroll & Graf • 2004 • 267 pages • $26.00

Reviewed by Richard M. Ebeling

Americans, it is often said, are in general ignorant of history, both their own and that of other countries around the world. This lack of historical knowledge and understanding means that too many Americans cannot appreciate the context of many political events in other parts of the globe.

For example, the political conflicts and atrocities that have occurred for more than a decade in the former Yugoslavia are the legacies of the peace treaties that followed the end of World War I. Prewar Serbia was expanded to include large parts of the old Austro-Hungarian Empire, areas that contained Slovenians, Croats, Bosnians, as well as those populated by Macedonians, Albanians, Montenegrins, Bulgarians, and Hungarians. The Serbs dominated the government of this artificially created "Yugoslavia" in the years between the two world wars. After World War II, the country was kept together under the grip of a communist regime.

As the Cold War was ending and communism was losing its hold over Eastern Europe, the national, religious, and linguistic groups in Yugoslavia split apart. The wars and brutalities witnessed in this region of the Balkans since the early 1990s are a continuation of conflicts that predate World War I, when these groups were fighting both against the Turks, who had controlled much of this territory into the twentieth century, and among themselves for independence from and domination over each other. The settling of old scores between feuding groups, and the determination of political boundaries between these national, religious, and linguistic groups that were not allowed to be sorted out after 1918, have been playing themselves out before our eyes.

Another example of the legacy of World War I on contemporary global politics is Iraq. Before the war, what is now called Iraq was part of the Turkish Empire and was known as Mesopotamia—the ancient Biblical land of Babylon. During the war, the British, French, Italian, and Russian governments had signed a secret agreement to divide up most of the Turkish Empire among themselves. In the postwar period, some of this planned partition came to fruition as part of the peace treaties. France gained control of what is now known as Syria and Lebanon. The British acquired control of what became known as Palestine, Jordan, and Iraq, through "mandates" under the auspices of the League of Nations. (In 1899 the British had already established a "protectorate" over what is now called Kuwait.)

The story behind the creation of Iraq is told by Christopher Catherwood in his book *Churchill's Folly: How Winston Churchill Created Modern Iraq*. During World War I, the British had invaded this part of the Turkish Empire and occupied Basra and Baghdad. At the end of the war they marched up to Mosul in the north. Prominent figures in the British military already sensed the importance of the country's oil potential, though exploration had not fully shown the degree to which reserves were under the sand.

In early 1921 Winston Churchill was appointed Secretary of State for the Colonies as well as head of a Middle East Department responsible for Palestine and Iraq in the British government of Prime Minister David Lloyd George. He viewed his tasks as: (a) reducing British military expenditures in the colonial areas as much as possible to relieve pressure on the government's budget; and (b) assuring that stable governments were established in Palestine, Jordan, and Iraq to guarantee British political and economic interests in this region of the world, including security for the shipping and air routes to the "jewel in the crown" of the British Empire: India.

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Churchill was determined to cut spending by reducing British ground forces to a minimum, yet at the same time maintain British control over these areas. He was persuaded that air power could replace ground troops, through the use of a bombing strategy to keep under control any restive "natives" who might attempt to revolt against British authority or those whom the British put into local power. Several times in the early 1920s, when various tribal groups in Iraq rose up in opposition to the British, the air force was put into action, bombing not only military targets but civilian areas as well. Killing and wounding women and children were considered a way of intimidating the population into submission. This included the use of mustard and other poison gases.

In May 1920 Churchill was a vocal advocate of implementing this bombing strategy, telling a cabinet meeting that poison gas "should be definitely accepted as a weapon of war." On another occasion in 1919, he said, "I do not understand this squeamishness about the use of gas . . . I am strongly in favor of using poisoned gas against the uncivilized tribes." And one other time Churchill argued that "Gas is a more merciful weapon than high explosives and compels an enemy to accept a decision with less loss of life than any other agency of war. The moral effect is also very great. There can be no conceivable reason why it should not be resorted to."

Securing British control and influence over these areas of the Middle East required the establishment of "friendly" governments under British sponsorship. While there have long been references to "the Arabs" and pan-Arab nationalism, in fact, the Arabs have been splintered into different branches of the Islamic faith (mostly concerning who was legitimate heir to Mohammed's role as leader of the faithful) and tribal factions in various parts of Arabia.

The family of Saud under the leadership of Ibn Saud came out of World War I as a British-sponsored political power in the central part of the Arabian Peninsula. Along the Red Sea coast, the newly created Kingdom of Hijaz, which contained the holy cities of Mecca and Medina, was under the rule of King Hussein, head of the Hashemite branch of Mohammed's clan, the Quraishi. But in 1924 Ibn Saud's forces conquered the Hijaz and deposed Hussein.

The British established King Hussein's son, Abdullah, on the throne of "Trans-Jordan," that part of Palestine east of the Jordan River, since Palestine west of the Jordan had been promised as a Jewish homeland under the wartime Balfour Declaration. A descendant of Abdullah still reigns today in Amman, Jordan.

Hussein's other son, Faisal, had attempted to establish himself as ruler in Syria, although he was kicked out by the French. But he was to have another chance through the assistance of Churchill. Artificially carving out the boundaries of Iraq, and with little thought to the divergent groups now locked within the same borders, the British proceeded to set up a "native" government through which they could rule the country under the terms of the League of Nations mandate.

With the approval of the British Cabinet, Churchill schemed to establish Faisal as the king of Iraq. A limited and manipulated election process was set in motion, and Faisal assumed the role of ruler of Iraq in 1922. One additional problem in this process was that Faisal was a Sunni, the minority branch of Islam within the territory of Iraq. Thus Sunni political control over the Shiite majority long predated the more recent dictatorship of Saddam Hussein and was the product of British diplomatic intrigue.

Churchill and the British government soon found out that political puppets often resent and resist their role as marionettes at the end of strings held by someone else. Within months of taking power, Faisal attempted to gain more autonomy and power for himself, while expecting the British to pay for the military, political, and economic costs of running the country. Churchill was frustrated and angry at Faisal's behavior, declaring in exasperation that "while we have to pay the piper we must be effectively consulted as to the tune." The British were caught in a bind, because

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while they threatened to withdraw from Iraq and leave Faisal to his own devices, they were fearful that the country might fall to the aggressive Turks to the north, or—almost as bad—to the French, who would have liked to get their hands on the oil fields in the Kurdish areas of northern Iraq. So they had no alternative but to stay on, and pay a good part of Faisal's bills.

At the end of 1922, Lloyd George's government fell from power, and with it Churchill's position in the Cabinet; in the new election he lost his in seat in Parliament as well. But the consequences of the British creation of Iraq are still with us. □

Richard Ebeling is the president of FEE.

A History of Force: Exploring the Worldwide Movement Against Habits of Coercion, Bloodshed, and Mayhem

by James L. Payne

Lytton Publishing Co. • 2004 • 265 pages • $23.95 paperback

Reviewed by Sheldon Richman

Contributing editor James L. Payne has written a book that deserves the attention of every advocate of liberty. The nemesis of freedom is the initiation of physical force. Force, or the threat of its use, interferes with the mutually advantageous exchanges people seek. It is the enemy of natural rights, the free market, and the rule of law.

Champions of liberty often lament the extent to which aggressive force stains social life, even in relatively free societies. It should concern everyone. But that should not keep us from being grateful to Payne for bringing a good measure of perspective to the discussion. As he well documents, the world, especially the West, is not nearly as violent as it used to be.

Skepticism will understandably greet Payne's thesis. Fresh from the bloody twentieth century, complete with two horribly violent world wars and large-scale totalitarianism, how can anyone suggest our era is more placid than times past? He has a good answer: our view is biased. This is called "presentism," and Payne has several explanations for it. For example, we are more interested in the present than the past because we're living it. Although we can't do anything about then, we can do something about now. But to do something—and to get others to help us—we have to point out the problems. "There is but a small degree of difference between emphasizing a wrong and exaggerating it," Payne writes. Both militarists and peace activists share an interest in portraying the present as unprecedentedly perilous.

Payne also shows that the mass media create a sampling bias: "In an earlier age, cities, countries, and even civilizations could be swallowed up in bloodshed without other parts of the world even knowing about it. Today, tragedies in the farthest corner of the globe are comprehensively reported"—24/7 at the speed of light. Finally, some of the most grisly forms of violence have gone extinct. As Payne notes, "Certain coercive customs and practices [such as human sacrifice] disappeared so long ago in our culture that we don't register them as changes."

Payne documents the declining use of force in several areas: human sacrifice, genocide, military conquest, political murder, revolution, criminal punishment, violence in the streets, slavery and debt bondage, taxation ("robbery"), and freedom of expression. The reader will be astounded at how cruel and common both official and freelance violence was until the fairly recent past—and thus how good our own time looks in comparison.

Why has violence fallen from favor? Because, Payne writes, people's attitude toward the value of life slowly and fitfully has changed. This strikes me as more a tautology than an explanation. Surely the rise of liberal individualism had much to do with the change. But why did this philosophy spread? I'm inclined to think Ludwig von Mises tells a more complete story: people's appreciation for human life grew as they realized the benefits of exchange in a division of labor.

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Payne does not overlook terrorism, which has diminished in some forms while surging in others. "Islam and Global Terrorism" is his most controversial chapter. Payne's attribution of Islamic terrorism to Mohammed's being a "warlord" and to the perception of the West as a threatening carrier of modernity should spark much debate. In my estimation, Payne gives too little attention to the impositions on the Muslim world by Western governments since World War I.

Payne believes that the progress toward a force-free world will continue, and he urges those he calls "voluntarists" to help history along where possible. But he warns that if many people want some peaceful behavior suppressed, simply having the government cease suppressing it won't accomplish the voluntarists' ends. Often, Payne says, governments have restricted liberty in order to placate a population that would put down the "offending" conduct in a more extreme manner. I take Payne here to be saying what FEE has long maintained: the future of liberty depends on changing people's minds, not just current government policy.

I should point out two sources of dissatisfactions with this impressive book. First, the diminution of assertive force may in part be explained by people's becoming habituated to government decrees. It is often noted that the American people put up with regulations and taxes that would have incited violence in their revolutionary ancestors. Have we just gotten used to taking orders?

Second, I was disappointed to see no mention of the coercive state-mental-health system's role in controlling deviant but law-abiding behavior. This entails assertive force—preventive confinement, forced drugging, electroshock—against some two million unwilling people each year. No full accounting of violence in our society can neglect what Thomas Szasz calls the Therapeutic State. □

Sheldon Richman is the editor of The Freeman.

The Worm in the Apple

by Peter Brimelow

HarperCollins/Perennial • 2003/2004 • 273 pages • $24.95 hardcover; $13.95 paperback

Reviewed by George C. Leef

Just as a government monopoly in postal service would be a bad idea even in the absence of postal-worker unions, so would "public education" be a bad idea even in the absence of teacher unions. There can be no doubt, however, that the major teacher unions, the National Education Association and the American Federation of Teachers (along with their state and local affiliates), have contributed greatly to the intractable problems of government schooling: it costs far more than market-based education would and is remarkably ineffective. In *The Worm in the Apple*, journalist Peter Brimelow explores these unions and finds them highly destructive.

State and federal statutes have given labor unions unique powers for private organizations, such as the "right" to represent individuals who do not want their services and to compel employers to bargain with them "in good faith." In the private sector, however, competition serves as a brake on the ability of unions to obtain compensation in excess of that which would prevail on the free market. When it comes to government employees, however, competition is rarely present. Government operations are usually monopolies and do not have to fear the loss of customers and revenues if costs are high and quality is low. Union bosses milk that situation for all it's worth, and public education is Exhibit A.

Teacher unions have been able to negotiate outrageously generous contracts with school boards, giving high pay and benefits to competent and incompetent alike. No preference for better teachers ("merit pay") is allowed. Job security is more heavily armored than an M-1A1 tank. Teacher strikes are usually illegal, but they happen anyway. As a part of the settlement, union officials generally manage to gain an amnesty for all who violated their contracts.

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To put the public even further over a barrel, teacher unions are exceedingly adept at politics. Brimelow points out that it is common for the unions to field their own candidates in school-board elections. The support the unions give their candidates through in-kind services, such free phone banks, often leads to victory. The voters, taken in with all the rhetoric about the union candidate's "deep concern for the education of our children," don't realize that their pockets are going to be picked.

"Shameless" is the best word to describe the union tactics in their ceaseless attempts to squeeze more money out of the public. Brimelow provides lots of examples. In Jefferson County, Colorado, for instance, the union had its members call parents to lobby for a school-tax increase, using emergency phone numbers given by the students. In Albuquerque, after being subjected in class to "discussions" about the inadequacy of teacher pay, students walked out of school to stage a rally for an increase. Their signs were made from materials taken from the school's media center. The "protest" got out of hand, and some 200 students went on a disruptive rampage in the city.

Teacher unions, Brimelow notes, are also great supporters of educational fads. One of their favorites is class-size reduction, which appeals to people's natural desire for the best educational environment for children. Fewer students mean more individual attention, so the kids will learn better! Sadly, that assumption and the belief that students need more individual attention are almost never challenged. So unions usually win on the issue. But Brimelow shows that the consequences are not beneficial. Costs for the extra teachers and additional classrooms rise, while the average quality of teachers is diluted, as more rookies and people who would not formerly have been considered are hired.

Brimelow also shows that the teacher unions have helped along the dumbing down of American schools by pushing for weak books and programs that are easy for their not-too-bright members to use. This is one area where the book might have gone further and explored the unholy alliance between teacher unions and our "education schools," where future teachers are taught lots of fuzzy, "progressive" notions, such as that self-esteem is much more important than learning "mere facts."

The Worm in the Apple does a good job of setting forth the problem. What does Brimelow think should be done? He realizes that the Gordian knot-cutting solution is to get government out of the education business. He wants to see "the creation of a free market in education, rather than the current socialist government system." To get there, we will need to defang the teacher unions, and toward that end he suggests 24 sensible steps.

Brimelow has done his homework. His readable, often witty book shows why we will never have a respectable education system as long as the teacher unions dominate the government's near-monopoly on K–12 education. □

George Leef is the book review editor of The Freeman.

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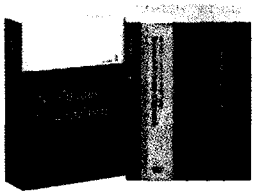

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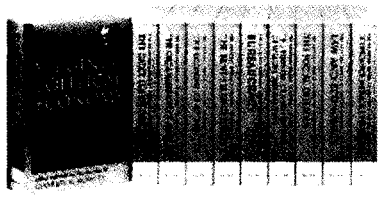

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THE FREEMAN
Ideas On Liberty
DECEMBER 2004

Why Not More Liberty?

There are two extreme views of American government and the political process. One is that policy is the result of special interests rigging the system in their favor and exploiting the ignorant or at least impotent masses. The other is that government pretty much gives the people what they want.

My own view is much closer to the second claim than the first. While I recognize the depressing frequency of pork-barrel legislation and numerous regulations that are structured to benefit special interests rather than the so-called public interest, I believe that the broad thrust of policy responds to the desires of the general public. Given this view, I believe that the road to greater freedom in America is to encourage a broader consensus for freedom that will in turn get translated into more limited government via the political process.

While reasonable people may disagree on these differing perceptions of the nature of the American political process, I think it's undeniable that the average American is considerably more comfortable with an activist role for government rather than a more limited role. Why is this the case? Why don't my fellow citizens prefer more limited government?

At first glance, liberty should be wildly popular. Each of us loves it and expects it for ourselves. Few of us want to be bossed around or treated like a child. There is a strong human urge to have our own way without restraint, and it starts young. As a parent, I see this desire in action constantly. Simply tell a baby "no" to any desire, be it for more food or something as simple as climbing the stairs, and you can see the desire for freedom in action. If anything, this resentment of authority grows stronger with time. I don't have teenagers yet, but I hear they're pretty willful. How do these creatures of desire, these babies and adolescents, mature into voters who support candidates who constantly advocate and implement restrictions on freedom—from drug laws to labor regulations to high tax rates?

There are many explanations for why activist government is not only prevalent in our times but popular. But one answer lies within each of us, working to counteract that same internal force working for liberty. There is one urge that may be equally strong as the desire to have your own way, and that's the urge to impose your will on others. Again, parenting gives us insight into this urge, but from the other side of the high-chair. We want our children to do what we tell them. Parental discipline may be weaker and punishment less corporal today than in past times, but we as parents still spend a great deal of time bossing our kids around or at least trying to.

When our children obey us, we feel good for two reasons. The first is altruistic, but the second is a little less attractive. Yes, we tell our children to stop playing in traffic for

Russell Roberts (roberts@gmu.edu) holds the Smith Chair at the Mercatus Center and is a professor of economics at George Mason University. He is a research fellow at Stanford University's Hoover Institution. His latest book is The Invisible Heart: An Economic Romance.

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their own good. Yes, we refuse them the second ice-cream cone for reasons of health or the creation of self-discipline. But we also try to manipulate our children for our own benefit. We ask our children to quiet down because we'd like a more peaceful home. We tell them to sit rather than roughhousing with each other. We tell them to read this book or that because we want them to be more like us. We send them to bed earlier than they'd like because they need a good night's sleep, yes, but also because we like a little private time with our spouses.

Power is an intoxicating elixir. One of the secrets of good parenting is restraining the urge to impose authority on our children simply because it is gratifying to have obedient children.

I'm not suggesting that we should indulge our children in order to let them enjoy freedom. I'm arguing that even the best of parents resents a child's disobedience. We don't like having our will thwarted as adults any more than we did as children. One challenge of being a parent is not to impose our will on our children just for the sake of being in control. This desire for control and the seductiveness of power can conflict with what is best for our children.

And of course, this phenomenon of imposing our will on others doesn't stop at our children. We want our spouse to act in ways that we deem desirable, our co-workers to recognize our wisdom and act in ways that we feel is best for the organization, and so on. We even want people to vote the way we do and support the policies we think are best for the country and the world.

The Public Arena

The conflict between the desire to be free and the desire to impose our will on others plays itself out in the public arena. We want our Scotch, but think it right to make cocaine illegal. We want to go skiing, but we force others to wear their seatbelts. We want to eat our ice cream, but think it's okay to ban smoking.

Mencken defined Puritanism as the haunting fear that someone, somewhere may be happy. A paternalistic government plays into the Puritanism most of us harbor somewhere deep inside. Not content with mere disapproval, we use force via the political process to restrain others.

Next time you're in the grocery and you see a stressed-out mom or dad screaming at the kid who naturally wants to play with the candy at the check-out line, you're seeing the roots of big government.

For normal human beings and decent parents, those grocery-store-type moments are few and far between. Love restrains us from indulging our urge to boss our children around for our good rather than theirs. Love for our children encourages us to let them begin to make their own choices as they grow up and head toward adulthood.

I long for a world where we show the same restraint in the political arena. One way to get to that world is to remind our fellow citizens of the virtues of adulthood. As an adult, I make my own decisions and deal with the consequences. Why do we want a political system that treats us like children? □

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VOLUME 54
JANUARY–DECEMBER 2004

Prepared by Beth A. Hoffman, Managing Editor, and Michael Tseng, FEE Intern

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